

**Final Regulatory Flexibility Analysis *and*  
Regulatory Impact Review  
*for a Final Rule to***

# **Establish the HMS International Trade Permit *and* Trade Monitoring Programs**

*Covering U.S. Trade of Bigeye Tuna, Bluefin Tuna, Southern Bluefin Tuna,  
Pacific Bluefin Tuna, and Swordfish from all Ocean Areas*



**November 2004**

**United States Department of Commerce  
National Oceanic and Atmospheric Administration  
National Marine Fisheries Service  
Office of Sustainable Fisheries  
Highly Migratory Species Management Division  
1 Blackburn Drive  
Gloucester, Massachusetts 01930**



# **Final Rule to Establish the HMS International Trade Permit and Trade Monitoring Programs**

## **Framework Adjustment to the Fishery Management Plan for Atlantic Tunas, Sharks, and Swordfish**

**Final Actions:** Establish a trade monitoring program for the import, export, and re-export of bigeye tuna, southern bluefin tuna and swordfish; adjust the trade monitoring program for bluefin tuna consistent with recommendations from the International Commission for the Conservation of Atlantic Tunas (ICCAT) and the Inter-American Tropical Tuna Commission (IATTC); and establish the Highly Migratory Species International Dealer Trade Permit.

**Type of Statement:** Final Rule Documents: Final Regulatory Flexibility Analysis and Regulatory Impact Review

**Lead Agency:** National Marine Fisheries Service (NOAA Fisheries)  
Office of Sustainable Fisheries

**For Further Information:** Dianne Stephan  
Highly Migratory Species Management Division: F/SF1  
One Blackburn Drive  
Gloucester, MA 01930  
Phone: (978) 281-9260 Fax: (978) 281-9340

**Abstract:** The United States is authorized under the Atlantic Tunas Convention Act and Tuna Conventions Act to promulgate regulations as necessary and appropriate to implement conservation and management recommendations that have been adopted by ICCAT or IATTC, respectively. This regulation implements 2001 ICCAT recommendations that called for the establishment of Atlantic swordfish and bigeye tuna statistical document and re-export certificate programs and a 2003 recommendation from IATTC for a similar program for Pacific bigeye tuna. NOAA Fisheries is consolidating the existing trade permitting structure to form an international trade permit and facilitate the reporting and monitoring of the program. This action is necessary to implement ICCAT and IATTC management recommendations for Highly Migratory Species.



# TABLE OF CONTENTS

<b>1.0 INTRODUCTION .....</b>	<b>1</b>
1.1 STATEMENT OF THE PROBLEM .....	1
1.2 DESCRIPTION OF THE MANAGEMENT OBJECTIVES .....	2
<b>2.0 DESCRIPTION OF THE FISHERIES - ATLANTIC &amp; PACIFIC .....</b>	<b>3</b>
2.1 BIGEYE TUNA.....	3
2.2 BLUEFIN TUNA.....	6
2.3 SWORDFISH.....	10
<b>3.0 DESCRIPTION OF THE ALTERNATIVES.....</b>	<b>13</b>
<b>4.0 ECONOMIC EVALUATION .....</b>	<b>15</b>
4.1 NUMBER OF DEALER PERMIT HOLDERS .....	15
4.2 GROSS REVENUE OF DEALERS .....	16
4.3 VARIABLE COSTS AND NET REVENUES .....	17
4.4 EXPECTED ECONOMIC IMPACTS OF THE ALTERNATIVES CONSIDERED .....	20
<b>5.0 REGULATORY IMPACT REVIEW.....</b>	<b>22</b>
5.1 IDENTIFICATION AND ANALYSIS OF THE PROBLEM .....	22
5.2 DESCRIPTION OF THE MANAGEMENT OBJECTIVES .....	22
5.3 POSSIBLE ECONOMIC BENEFITS OF THE FINAL MANAGEMENT MEASURES.....	22
5.4 POSSIBLE ECONOMIC COSTS OF THE FINAL MANAGEMENT MEASURES .....	22
5.5 CONCLUSIONS.....	22
<b>6.0 FINAL REGULATORY FLEXIBILITY ANALYSIS (FRFA).....</b>	<b>24</b>
6.1 DESCRIPTION OF THE REASONS WHY ACTION IS BEING CONSIDERED.....	24
6.2 STATEMENT OF THE OBJECTIVES OF, AND LEGAL BASIS FOR, THE PROPOSED RULE .....	24
6.3 A SUMMARY OF THE SIGNIFICANT ISSUES RAISED BY THE PUBLIC COMMENTS IN RESPONSE TO THE INITIAL REGULATORY FLEXIBILITY ANALYSIS, A SUMMARY OF THE ASSESSMENT OF THE AGENCY OF SUCH ISSUES, AND A STATEMENT OF ANY CHANGES MADE IN THE RULE AS A RESULT OF SUCH COMMENTS .....	24
6.4 DESCRIPTION AND ESTIMATE OF THE NUMBER OF SMALL ENTITIES TO WHICH THE FINAL RULE WILL APPLY .....	25
6.5 DESCRIPTION OF THE PROJECTED REPORTING, RECORD-KEEPING, AND OTHER COMPLIANCE REQUIREMENTS OF THE FINAL RULE.....	25
6.6 IDENTIFICATION OF ALL RELEVANT FEDERAL RULES WHICH MAY DUPLICATE, OVERLAP, OR CONFLICT WITH THE FINAL RULE .....	26
6.7 DESCRIPTION OF ANY SIGNIFICANT ALTERNATIVES TO THE PROPOSED RULE THAT ACCOMPLISH THE STATED OBJECTIVES OF APPLICABLE STATUTES AND THAT MINIMIZE ANY SIGNIFICANT ECONOMIC IMPACT OF THE PROPOSED RULE ON SMALL ENTITIES .....	26
<b>7.0 OTHER CONSIDERATIONS .....</b>	<b>28</b>
7.1 MAGNUSON-STEVENS FISHERY MANAGEMENT AND CONSERVATION ACT .....	28
7.2 PAPERWORK REDUCTION ACT .....	28
7.3 E.O. 13132.....	28
<b>8.0 SUMMARY OF PUBLIC COMMENTS AND AGENCY RESPONSES TO DRAFT RIR/IRFA.....</b>	<b>29</b>



<b>9.0 LIST OF PREPARERS .....</b>	<b>39</b>
<b>10.0 REFERENCES .....</b>	<b>40</b>



## 1.0 Introduction

The United States is authorized under the Atlantic Tunas Convention Act [ATCA; 16 U.S.C. 971(d)3] and Tuna Conventions Act (TCA, 16 U.S.C. 955) to promulgate regulations as necessary and appropriate to implement conservation and management recommendations that have been adopted by the International Commission for the Conservation of Atlantic Tunas (ICCAT) and the Inter-American Tropical Tuna Commission (IATTC), respectively. ICCAT adopted recommendations for the establishment of Atlantic<sup>1</sup> swordfish and bigeye tuna statistical document and re-export certificate programs at its 2001 annual meeting, and for the addition of a bluefin tuna re-export certificate to the bluefin tuna statistical document program in 1997. At its June 2003 meeting, IATTC adopted a resolution establishing a statistical document program for Pacific bigeye tuna. The Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC) may consider a similar measure. In order to comply with recommendations from ICCAT and IATTC, NOAA Fisheries is creating an international trade monitoring program for the export, import and re-export of bigeye tuna and swordfish. Trade of southern bluefin tuna will also be covered by the program to ensure the previously implemented trade monitoring program for bluefin tuna is effective. An international dealer trade permit will be established to facilitate implementation of these documentation and reporting requirements.

### 1.1 Statement of the Problem

ICCAT has determined that Atlantic stocks of bigeye tuna, bluefin tuna, and swordfish are overfished in the Atlantic Ocean. Large scale longline vessels from ICCAT member and non-member nations alike have been reported to operate in a manner that diminishes the effectiveness of previously implemented ICCAT measures designed, in part, to prevent overfishing and rebuild stocks of these species. At its 2000 meeting, ICCAT recommended the implementation of trade monitoring programs which would address such illegal, unreported and unregulated (IUU) catches in the Convention Area. During 2001, programs for bigeye tuna and swordfish statistical documents and re-export certificates were officially adopted.

ICCAT member nations are now required to implement the bigeye tuna and swordfish trade monitoring programs. The United States is including coverage of Pacific stocks to establish an enforceable program, consistent with the approach taken for bluefin tuna. In addition, Pacific bigeye tuna statistical documents are required by IATTC to monitor frozen product trade of this species, and the WCPFC is expected to consider a similar recommendation. A re-export certificate for bluefin tuna, which was required under the bluefin tuna statistical document program implemented previously by ICCAT, will also be included.

---

<sup>1</sup> **A note on taxonomic terminology** – Bigeye tuna (*Thunnus obesus*), and swordfish (*Xiphias gladius*) found in the Atlantic ocean and Pacific ocean are separate stocks of the same species, and will be referred to in this document as “Atlantic bigeye tuna,” “Pacific swordfish,” etc. to identify the area of capture. “Atlantic bluefin tuna” will refer to the species *Thunnus thynnus*. Pacific bluefin tuna is the species *Thunnus orientalis* and southern bluefin tuna is the species *Thunnus maccoyii*.



To improve compliance with the bluefin tuna statistical document program, a statistical document program for southern bluefin tuna is also needed. Southern bluefin tuna are virtually indistinguishable from Atlantic bluefin tuna and Pacific bluefin tuna. Currently, it may be possible for Atlantic or Pacific bluefin to be mislabeled as southern bluefin, thus circumventing the statistical document reporting requirements. This confounds the established trade tracking program. In addition, the Commission for the Conservation of Southern Bluefin Tuna has requested that the United States take part in its statistical document program in order to further conservation efforts for this species.

## **1.2 Description of the Management Objectives**

This action would implement the necessary U.S. trade monitoring programs by amending fishery regulations for dealer permitting and reporting of Atlantic and Pacific swordfish, bigeye tuna, bluefin tuna, and southern bluefin tuna. The objective of these management measures is to implement the ICCAT and IATTC recommendations regarding trade documentation, further the domestic and international understanding of the bigeye tuna and swordfish fisheries and fisheries trade, and help address illegal, unregulated, and unreported (IUU) fishing for these species. Specifically, this action would implement statistical document and re-export certificate programs for bigeye tuna, southern bluefin tuna, and swordfish, add a re-export certificate to the bluefin tuna statistical document program, and establish the Highly Migratory Species International Dealer Trade Permit (HMS ITP).



## 2.0 Description of the Fisheries - Atlantic & Pacific

In addition to the authorities described in Section 1.0, provisions of the Magnuson-Stevens Fishery Management and Conservation Act (Magnuson-Stevens Act) (16 U.S.C. 1801 et seq.) are also applicable to HMS fisheries. NOAA Fisheries manages the Atlantic swordfish and tuna fisheries under the *Fishery Management Plan for Atlantic Tunas, Swordfish and Sharks* (HMS FMP). Regulations implementing the HMS FMP at 50 CFR part 635 were promulgated under the authorities of the Magnuson-Stevens Act and ATCA. NOAA Fisheries manages swordfish, tuna, and other highly migratory species in the central and western Pacific Ocean under the *Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region* (PFMP) that was prepared by the Western Pacific Fishery Management Council. Regulations implementing that plan at 50 CFR parts 300 and 660 were promulgated under the authorities of the ATCA and TCA, and the Magnuson-Stevens Act, respectively. The FMP for U.S. west coast highly migratory species developed by the Pacific Fishery Management Council was approved by NOAA Fisheries in February 2004 and is currently being implemented. Absent a Federal FMP or other applicable Federal regulations, a state may regulate a state-registered fishing vessel outside of the boundaries of the state (e.g. in Federal waters) (16 U.S.C. 1856(a)(3)).

Other treaty and statutory authorities relevant to Pacific management include the South Pacific Tuna Act of 1988 (16 U.S.C. 973 et seq.), the High Seas Fishing Compliance Act (16 U.S.C. 5501 et seq.), and the U.S.-Canada Albacore Treaty. The WCPFC was formed by convention in June 2004. Customs requirements pertaining to the import and export of product harvested by national and international swordfish and tuna fisheries include those under 19 U.S.C. § 1 et seq. and regulations of the U.S. Bureau of Customs and Border Protection (CBP), formerly the U.S. Customs Service, under title 19 of the C.F.R.

### 2.1 Bigeye Tuna

#### *Biology and Stock Status*

Detailed descriptions of the life histories of bigeye tuna are given in the HMS FMP and the PFMP and are not repeated here.

Atlantic - Although ICCAT recognizes a single Atlantic stock for management purposes, it notes the possibility that more than one stock might exist (SCRS 2002). ICCAT reported that the 2002 stock assessment was hampered by a lack of detailed information from some of the major fisheries. Despite the missing information, a number of production models were used to estimate maximum sustainable yield (MSY), which ranged from 79 to 105 thousand metric tons (mt). For the years between 1993-99, these models estimated that the total catch of bigeye tuna exceeded the upper MSY estimate limit for these years, which caused the stock to decline considerably. Total catches have decreased in recent years, and bigeye tuna biomass has leveled off. Current biomass is estimated to be about 10 to 20 percent below biomass corresponding to MSY. Current fishing mortality is estimated to be about 15 percent higher than fishing mortality (F) that would achieve MSY. ICCAT concluded that these and other results indicate that the Atlantic bigeye tuna stock is being overexploited. ICCAT also found that recruitment



overfishing may be occurring, and that yield per recruit could be increased with a reduction in fishing effort by small fish fisheries.

Pacific - While bigeye is thought generally to consist of a single basin-wide stock, assessments are routinely conducted for fisheries in the eastern Pacific Ocean (EPO; east of 150° W. longitude) by the IATTC and in the western central Pacific Ocean (WCPO; west of 150° W longitude) by Secretariat of the Pacific Community (for the near-term the new WCPFC will contract to the SPC for these assessments). An analysis of the WCPO stock in 2004 indicated that recruitment had an increasing trend since the 1980s and reached the highest level in 1999. During the 1990s, catches and fishing mortality of juvenile bigeye have increased. Biomass had a declining pattern during the late 1950s and early 1960s and has been fairly stable thereafter. Current levels of biomass are about 40% of what would occur in the absence of fishing. The current fishing mortality is close to an MSY level and the current biomass is judged to be above the MSY level. Current levels of fishing mortality carry high risks of overfishing but the probability that the WCPO stock is in an overfished state is close to zero. Given the current stock status, the Standing Committee on Tuna and Billfish recommended that, as a minimum measure, there be no further increase in the fishing mortality for bigeye.

The IATTC evaluation of bigeye in the EPO indicates that fishing mortality on juvenile (<6 years old) bigeye has increased significantly since 1993, but fishing mortality on older bigeye has remained stable. The increase in average fishing mortality on the younger fish was caused by the expansion of the fisheries that catch bigeye in association with floating objects. Recruitment of bigeye tuna to the fisheries in the EPO is variable, and the causes of the variation in recruitment have not been fully identified. Greater-than average recruitments occurred in 1977, 1979, 1982-1983, 1992, 1994, 1995-1997, and during the second quarters of 2001 and 2002, but recruitment has generally been much less than average from the second quarter of 1998 to the end of 2003. Fishing has reduced the total biomass of bigeye present in the EPO, and it is predicted to be at its lowest level by the end of 2004. There has been an accelerated decline in biomass since the small peak in 2000. The spawning stock of bigeye has now declined below the MSY level and is projected to reach a historic low level in 2007-2008, and remain below the level corresponding to the MSY for many years unless fishing mortality is greatly reduced or recruitment is greater than average levels for a number of years.

### *Fishing Operations*

Atlantic - The Atlantic bigeye tuna stock is harvested by many nations. Three major types of fishing - pelagic longline, baitboat, and purse seine, are used to harvest this species (SCRS 2002). The longline fishery lands medium to large fish (45-50 kg average weight), the directed baitboat fishery lands fish from 20 to 30 kg, and incidental baitboat and directed fisheries land small fish (3-4 kg). Generally, the longline-caught fish are worth several times more per unit weight than those landed in other fisheries. Bigeye is a primary target species for most pelagic longline and baitboat fisheries (except Ghanaian), but is of secondary importance for purse seine fisheries and the Ghanaian baitboat fishery.

Total bigeye landings increased gradually through the mid-1970's to about 60,000 mt, and fluctuated between 45,000 and 84,000 mt for the next 15 years. In 1991, landings passed





95,000 mt, and continued to increase to a historic high of 132,000 mt in 1994. Since then, landings have declined with some fluctuation, and these declines have been seen in all of the three major fisheries; although landings have increased in some countries. Two pelagic longline fisheries accounted for just below 40 percent of the total bigeye catch by weight in 2001. Japan harvested 19,000 mt and Chinese Taipei harvested 16,400 mt. Catches by these gears accounted for the majority of landings for these countries. Ghana also had a significant catch for 2001 (14,095 mt) and the United States harvested 1085 mt. For detailed information on U.S. bigeye tuna landings in the North and South Atlantic Ocean, please see the most recent annual Atlantic HMS Stock Assessment and Fishery Evaluation (SAFE) Report.

Pacific - The bigeye tuna fishery in the Pacific is conducted by large-vessel, distant-water longline fleets of China, Japan, Korea, and Taiwan as well as by generally medium-to-small-vessel, locally-based longline fleets from Pacific island states, Australia, China, New Zealand, Indonesia, and the United States. Pacific-wide catch of bigeye has varied between 100 and 200 thousand mt since 1980. Longline catches in the EPO, which have historically been the primary longline fishery area for bigeye tuna, have varied from 33 to 104 thousand mt since 1980, and have generally fallen below 70,000 mt in recent years, with an historic low in 1999. Longline catches in the WCPO have varied between 40 to 70 thousand mt for the last 30 years, with the highest on record occurring during 2002 (76,894 mt). Bigeye tuna are considered the economic cornerstone of the WCPO tropical longline fishery, with a value that approached \$1 billion in 2001.

There has been a rapid increase in purse seine catches of juvenile bigeye tuna as a result of the use of fish aggregating devices, in both the EPO and to a lesser extent, the WCPO. In the EPO, catches have increased from annual levels of less than 5,000 mt prior to 1994 to a record high of 70,000 mt in 2000. Of the record high WCPO 38,367 mt catch in 1999, the U. S. fleet harvested approximately 18,694 mt. Since 1999, bigeye tuna catches by purse seines have declined. The number of U.S. vessels participating in WCPO tuna purse seine fisheries since 1990 ranged from a low of 29 in 2002 to a high of 49 in 1994. The lowest bigeye tuna catch occurred in 1991. In the Hawaii-based longline fishery, the bigeye catch is about 4 percent of the longline catch in the WCPO. Catches by various gears in the Indonesia, the Philippines, and coastal Japan have amounted to 12 to 17 thousand mt.

The domestic catch in the U.S. Exclusive Economic Zone (EEZ), primarily off southern California, accounts for less than 1 percent of the entire catch of bigeye tuna for the entire eastern Pacific Ocean. These fish are mainly harvested by purse seiners, with some incidental catch in the swordfish/shark drift net fishery and the albacore surface fishery. Bigeye tuna are also taken in the US EEZ by recreational fishermen.

#### *Current Domestic Trade Monitoring Requirements*

Dealer permitting and reporting requirements for Atlantic HMS are found in 50 CFR Secs. 635.4 and 635.5, respectively. Pacific HMS requirements are found in 50 CFR 300.

Atlantic - Any Atlantic or Gulf of Mexico (GOM) coast dealer that purchases a federally managed Atlantic tuna (bluefin, albacore, yellowfin, bigeye, and skipjack) from a vessel is required to obtain an Atlantic Tunas Dealer Permit, which is issued by the NOAA Fisheries Northeast Regional Office (NERO).

Atlantic dealers in the states of Maine south through Virginia are required to report bigeye, albacore, yellowfin and skipjack tuna (BAYS) landings to NERO primarily through an electronic web-driven reporting system. The remaining Atlantic and Gulf coast dealers, (i.e., dealers located in the states of North Carolina south through Texas) are required to report BAYS landings to the NOAA Fisheries Southeast Regional Office (SER).

In the special circumstances when a dealer imports or lands a fish and then transfers it to another dealer, the first dealer is responsible for including it on a biweekly report, and must contact the second dealer to obtain the pricing and destination information necessary to complete the biweekly.

Pacific - A Federal permit is not required for dealers to purchase bigeye tuna on the Pacific coast, nor in American Samoa, Guam, Hawaii, or Northern Mariana Islands.

## **2.2 Bluefin Tuna**

### *Biology and Stock Status*

Detailed descriptions of the life histories of bluefin tuna are given in the HMS FMP and other documents and are not repeated here. It should be noted that Atlantic bluefin tuna and Pacific bluefin tuna were formerly considered to be a single species (*Thunnus thynnus*); however Pacific bluefin tuna has recently been reclassified as a separate species (*Thunnus orientalis*). Southern bluefin tuna is a third distinct species (*Thunnus maccoyii*). Bluefin tuna species are virtually indistinguishable by external examination.

Atlantic - Bluefin tuna in the Atlantic Ocean are managed as an eastern stock and a western stock. At the 2002 meeting of the Standing Committee on Research and Science (SCRS) of ICCAT, stock assessment analyses were prepared for the western and eastern Atlantic stocks of BFT. For western Atlantic BFT, two stock assessment scenarios were prepared based on assumptions regarding recruitment. The results of projections based on the low recruitment scenario for the western Atlantic stock indicated that a constant catch of 2,500 mt per year has a 97 percent probability of allowing rebuilding to the associated biomass at MSY by 2018. A constant catch of 2,500 mt per year has about a 35 percent probability of allowing rebuilding to the 1975 stock size by 2018. Under the high recruitment scenario, a constant catch of about 2,500 mt has about a 60 percent probability of allowing rebuilding to the 1975 stock size; a catch of 2,700 mt has about a 52 percent chance of reaching this stock size. The SCRS cautioned that these conclusions do not capture the full degree of uncertainty in the assessments and projections. The immediate rapid projected increases in stock size are strongly dependent on estimates of high levels of recent recruitment, which are the most uncertain part of the assessment. The implications of stock mixing between the east and west Atlantic add to the uncertainty. At the 2002 meeting, ICCAT adopted a recommendation to increase the annual



quota of BFT in the western Atlantic Ocean from 2,500 mt to 2,700 mt, consistent with the western BFT rebuilding program established in 1998. NOAA Fisheries has published a final rule to implement these recommendations (October 2, 2003, 68 FR 56783).

For the eastern stock the SCRS noted that many of the recent catch statistics are undergoing revision. In conducting the 2002 stock assessment, the SCRS had difficulty in preferring one type of analysis over the other due to the low quality of the data. The new assessment indicates that the sustainable biomass of BFT in 2000 was about 86 percent of the 1970 level and that the 2000 level of fishing mortality was almost 2.5 times higher than that which maximizes yield per recruit. The SCRS expressed concern about the status of East Atlantic (including Mediterranean) BFT resources in the light of assessment results, the historically high reported catches and possible under-reporting since 1998. Analyses suggest that at current levels of recruitment and the present level of large- and small-fish fisheries, catch levels of 26,000 mt or more are not sustainable over the long-term. Because of the lack of confidence in the input data and in the assessment results, the SCRS was not in a position to give or suggest any strong management recommendations for the short or medium term. Based on these recommendations, ICCAT set the TAC for the eastern stock at 32,000 mt for the years 2003-2006.

Pacific - The Pacific bluefin tuna is predominately a northern species with the only known spawning area off southern Japan. Age-1 fish are recruited into the eastern Pacific where they are harvested primarily off the southern U.S. and Mexico. The U.S. fishery, primarily purse seine, was quite significant up to 1970 then decreased while Mexican purse seine catches have been stable but variable. With increasing age, the fish move westward with the oldest found off Japan. Most of the harvest is in the northwestern Pacific by Japan with small harvests by Korea and Taiwan, but the species is distributed widely with modest catches occurring off Australia and New Zealand. At its January 2004 meeting the Interim Scientific Committee on Tunas and Tuna-like Species in the North Pacific (ISC) concluded that 1) biomass appears to have recovered from record lows in the late 1980's, 2) the spawning stock biomass has declined since 1995 despite good recruitment and will likely to continue to do so if recent mortality rates continue, 3) recent fishing mortality is greater than  $F_{max}$ , and 4) the high fishing mortality on age 0-2 and 6+ fish may be cause for concern. The IATTC periodically reviews the status of Pacific bluefin tuna in the EPO.

Southern - The stock assessment undertaken by the Commission for the Conservation of Southern Bluefin Tuna (CCSBT) in 1998 suggested that the parental biomass of southern bluefin tuna is at historically low levels, in the order of 7 to 15 percent of the 1960 level. The CCSBT acknowledged the advice of its Scientific Committee at its annual meeting in October 2002 that at a global catch of about 15,500 mt, there was an equal probability that the stock could decline or improve. It was acknowledged that at current catch levels there is little chance that the southern bluefin tuna spawning stock will be rebuilt to the 1980 levels by 2020.

### *Fishing Operations*

Atlantic - Present fisheries for Atlantic bluefin tuna are distributed from the Gulf of Mexico to Newfoundland in the west Atlantic, from roughly the Canary Islands to south of



Iceland in the east Atlantic, and throughout the Mediterranean Sea. In 1982, ICCAT established a line for separating the eastern and western Atlantic management units based on discontinuities in the distribution of catches at that time. The reported total catches (landings and discards exclusive of estimated unreported catch) of western Atlantic bluefin tuna in 2000 and 2001 are estimated as 2,395 MT and 2,597 MT, respectively. The United States, Canada, and Japan are the primary fishing nations and their fleets primarily utilize pelagic longline, purse seine, rod and reel, and harpoon fishing gear.

The east Atlantic bluefin fisheries (including the Mediterranean) are characterized by a variety of vessel types and fishing gears with landing sites located in many countries. Therefore, the landing statistics are difficult to obtain, particularly for the Mediterranean. Certain fisheries, such as the traps, go back to ancient times. Other fisheries, such as the Mediterranean purse seine fishery mainly emerged in the 1960s. Based on estimates of 1995-2000 catches, the most important catches were from pelagic longline, traps and baitboat for the East Atlantic; and from purse seine and longline for the Mediterranean (the purse seine fleet accounts for 60-80% of the Mediterranean catch). Additionally, it is suspected that large quantities of undersized fish are caught but not reported. In 2000, ICCAT estimated the landings of bluefin tuna from the East Atlantic and the Mediterranean (including estimates of unreported catch) to be approximately 33,754 mt.

Pacific - Pacific bluefin tuna are harvested mainly by purse seines, with small contributions by troll, set net, and pelagic longline fisheries. Catches have ranged between 10,000 – 35,000 mt and averaged more than 20,000 mt per year stock-wide (1952-2002). In the eastern Pacific, catches are much less, having averaged 3,500 mt per year (1990-1997), and are primarily taken by purse seiners (IATTC 1999). Fishing in the eastern Pacific Ocean occurs off southern California and Mexico, mainly between spring and fall and within 100 miles of shore.

Southern - Except for Australian fisheries, southern bluefin tuna are caught primarily by pelagic longline gear. The Australian fishery uses purse seine gear and the fish are stored in a pen for several months to fatten them up prior to being shipped to the fish market. The three original members of the CCSBT – Australia, Japan and New Zealand -- agreed to several management measures being introduced with a general aim of rebuilding parental stocks to 1980 levels, by the year 2020. A TAC of 11,750 mt was agreed upon and applied from 1989 to 1997. From 1998, the three original members maintained voluntary catch limits. In 2001 the voluntary limits were: Japan - 6,432 mt, Australia - 5,265 mt, and New Zealand - 420 mt. On joining the Commission, Korea agreed to limit its national annual catch to 1,140 mt. Taiwan has agreed to limit its annual catch to 1,140 mt as part of its undertakings to join the Extended Commission. Korea and Taiwan primarily use longline and purse seine gear to harvest southern bluefin tuna. The combined harvest in 2001 was estimated to be 16,216 mt.

#### *Current Domestic Trade Monitoring Requirements*

The United States implemented a Bluefin Tuna Statistical Document (BSD) program in 1995, as a requirement for lawful entry and export of bluefin tuna into and from the customs territory of the United States. In addition, a bluefin tuna tagging and a government accredited institution validation system has been employed. Taken together, these data collection and



reporting systems track the import and export of bluefin tuna and comply with ICCAT recommendations regarding the BSD program. Complementary systems are in place for Atlantic and Pacific bluefin tuna, and information on both species is reported to ICCAT on a semi-annual basis.

Atlantic - Up to three reporting forms are required if Atlantic or GOM coast dealers purchase from a vessel, import, and/or export a bluefin tuna. After purchasing a bluefin tuna from a vessel, a dealer must attach a uniquely numbered tag, provided by NER HMS, to the fish's tail. This unique number must be recorded on a landing card, which also includes the dealer's Atlantic Tuna Dealer Permit number, and other information about the fish and where it was captured and landed. This form must then be faxed immediately to NER HMS. Portions of this information must also be recorded on the Bi-weekly Report (biweekly). The biweekly summarizes information for each bluefin tuna landed or imported by a dealer over a two-week reporting period, and must be mailed to NER HMS within 10 days after a period with activity closes.

In addition, dealers exporting a bluefin tuna must prepare an original United States Bluefin Statistical Document (BSD) and attach it to the shipment en route to its final destination. This regulation is based on an ICCAT requirement that a BSD accompany any bluefin tuna that is exported from one country to another. Copies of the BSDs for an exported fish that was domestically landed must be postmarked and mailed or faxed by the dealer to NER HMS within 24 hours after export. Dealers importing bluefin tuna with the United States as the final destination must postmark and mail the original BSD from the foreign country to HMS within 24 hours of import. Dealers re-exporting (exporting a bluefin tuna after it was imported from another country) must attach the original BSD from the foreign country with the shipment on route to its final destination. Copies of the BSD must be postmarked and mailed or faxed to NER HMS within 24 hours of re-export.

Pacific - Federal dealer permits are not required for purchase of bluefin tuna from a U.S. flag vessel on the U.S. Pacific coast. In order to import or export bluefin tuna, a Pacific dealer must obtain a Pacific Bluefin Dealer Permit (PBDP) which is issued free of charge by the NOAA Fisheries Southwest Regional Office (SWR). All imported bluefin tuna must be accompanied by a BSD originating from the exporting nation. The importer must provide SWR with a copy of the BSD within 24 hours of receiving the shipment. The BSD must accompany the shipment to the final destination.

Exported individual bluefin tuna must be associated with a dealer prepared BSD, and either a tail tag or government validation. For bulk shipments, government validation of the BSD may be performed by a federal government representative at the SWR or a non-government organization authorized to validate bulk shipments. Currently, The San Pedro Fisheries Institute located in San Pedro, CA is authorized to validate bulk shipments for its member. The original copy of the BSD accompanies the shipment of fish, and a copy of the BSD must be delivered to SWR within 24 hours. Biweekly dealer reports must be submitted to SWR for each pre-defined two week period during which a shipment is imported or exported.

Southern - Currently, there is no reporting requirement for imports or re-exports of southern bluefin tuna. CBP instituted a separate tariff code in 2002 to aid in tracking shipments.

## **2.3 Swordfish**

### *Biology and Stock Status*

Detailed descriptions of the life histories of swordfish are given in the HMS FMP and the PFMP and are not repeated here.

Atlantic - ICCAT divides swordfish management units in the Atlantic into north and south sectors at 5° N latitude. The North Atlantic stock assessment conducted by ICCAT in 2002 showed an improvement in stock status since 1998 (SCRS 2002). In particular, recruitment appears to have improved substantially since 1997. If the strong year classes of 1997 and 1998 are not heavily fished in the future, improvements are expected to continue. Early in 2002 the biomass was estimated to be 94 percent of that necessary to produce MSY. Fishing mortality was estimated to be three-quarters of  $F_{MSY}$ , and replacement yield was estimated at about MSY. Biomass is expected to increase further under current catch levels.

South Atlantic swordfish are considered fully fished and overfishing may be occurring. ICCAT conducted a stock assessment of South Atlantic swordfish in 2002. Due to discrepancies between several of the datasets, reliable stock assessment results could not be produced. In general, ICCAT noted that the total catches have decreased since 1995 as recommended. Based on this information, significant changes in the management regime were not required.

Pacific - There is uncertainty over the stock structure of swordfish in the Pacific. Recent genetic evidence suggests a sideways horseshoe distribution with the ends in the southwest and northwest Pacific showing the greatest genetic divergence. Assessments using data through 2002 indicated that the fisheries in the North Pacific were having a modest impact on the stock though declines in abundance were apparent in the northwestern Pacific. The ISC assessments did not include estimates of MSY, though the long-term potential yield was estimated to be greater than the current yield.

There are either one or two stocks in the eastern Pacific Ocean (EPO), and a third northwestern stock may occasionally move into the area. If there are two EPO stocks, one would be centered off California and Mexico, and the second in the southeastern Pacific. It appears that fisheries in the EPO are fishing above the average MSY (Hinton and Bayliff 2002). Catches in the region have been fairly stable since 1989, averaging about 13,000 mt annually. Taking these considerations into account, swordfish in the EPO do not appear to be overfished. However, since gillnet and longline fisheries are increasingly targeting swordfish in this area, the IATTC stock assessment (Hinton and Bayliff 2002) suggests that these stocks be monitored closely for any changes in trends.

### *Fishing Operations*





Atlantic - Swordfish are harvested throughout the Atlantic Ocean in pelagic longline fisheries. Within the North Atlantic, major harvesting nations include Japan, Spain, the United States, Canada, and Portugal. The U.S. quota is 29 percent of the total North Atlantic quota established by ICCAT. The current U.S. quota is 2,951 mt and a proposed rule (68 FR 36967) published on June 20, 2003, proposes increasing the quota to 3,877 mt. Numerous other countries, both members and non-members of ICCAT, harvest lesser amounts of swordfish.

In the South Atlantic, vessels fishing for swordfish are primarily from Brazil, Spain, Japan, and Uruguay. Vessels from the United States landed less than 2 percent of total South Atlantic landings in 1999. Japanese vessels catch swordfish incidental to tuna longline operations throughout the Atlantic Ocean. The current U.S. quota is 384 mt and a proposed rule (68 FR 36967) published on June 20, 2003, proposes reducing the quota to 100 mt. For detailed information on U.S. swordfish landings in the North and South Atlantic Ocean, please see the most recent annual Atlantic HMS SAFE Report.

Pacific - Major Pacific Ocean fishing areas for swordfish are oceanic waters of Japan, north of Hawaii in the area known as the North Pacific Transition Zone, and along the west coasts of the United States, Mexico, Ecuador, Peru, and Chile, as well as off Australia and New Zealand (PFMC 2002). Until recently a substantial fraction of the Pacific catch of swordfish was harvested by the U.S. longline fleet in the central-western Pacific. The rest of the swordfish yield is largely taken by surface gears, such as harpoons, handlines, and coastal drift gillnets.

From 1989 to 1993, production from the U.S. domestic longline fishery in Hawaii increased rapidly, reaching 5,925 mt and an ex-vessel revenue of \$26.1 million in 1993. Production from the Hawaii fishery accounted for about 14% of the total Pacific production in the 1990s. The swordfish production from the U.S. domestic gillnet and harpoon fisheries located primarily off California increased markedly between 1975 and 1985, when a peak yield of 3,400 mt was landed. Production from these sources declined in the 1990s, while production increased from longline vessels based in California and with seasonal participation by vessels from the Hawaii-based fleet making landings in California. The U.S. eastern Pacific fishery has a recent average annual yield of about 1,400 mt worth about \$6 million in ex-vessel revenue. Both the U.S. longline and gillnet fisheries have recently been affected by concerns over interactions with protected species. In 2001 the Hawaii-based longline fishery was prohibited from using shallow-set fishing methods that target swordfish, due to high bycatch rates of primarily loggerhead and leatherback sea turtles, but reinstated in 2004 with new gear, fishing effort and turtle take limitations. Annual catches in the Hawaii-based fishery during 2001 and 2002 declined to about 225 mt due to the regulations prohibiting swordfish fishing. The catch and effort of the California gillnet fishery also plummeted owing to expansion of area and season closures to reduce pinniped and turtle interactions.

#### *Current Domestic Trade Monitoring Requirements*

All dealers who import swordfish must obtain a swordfish dealers permit from the NOAA Fisheries Southeast permit office in St. Petersburg, FL. This permit covers dealers who purchase product from vessels on the Atlantic coast, as well as any dealer that imports swordfish,



regardless of location of capture. A certificate of eligibility (COE) must be accompanied by each shipment of swordfish imported into the United States. This document certifies that shipments of Atlantic swordfish were harvested following the required ICCAT management regime. Swordfish importers must report all imports; however there is some regional variability in reporting method. For all regions, swordfish import biweekly reports are required with attached copies of COEs, but biweekly reports are not required for periods without activity. All swordfish dealers are required to submit biweekly reports for domestic landings, including negative reports, even if they are solely engaged in import activity.

Atlantic - In addition to the national requirement for dealers purchasing imported swordfish, the swordfish dealer permit is also required for dealers purchasing Atlantic swordfish from a U.S. flag vessel. All of these purchases must be reported. Dealers located in the states of Virginia south through Texas are required to report vessel purchased swordfish to the Southeast Fisheries Science Center (SEFSC) in Key Biscayne, FL. Reports must be submitted biweekly, even if no purchases are made during the reporting period (negative reporting). Dealers located in the states of Virginia north to Maine file biweekly reports for swordfish purchased from U.S. flag vessels with NERO. Dealers in these states that import swordfish report to the Beaufort, North Carolina NER port agent on a biweekly basis. Copies of COEs accompanying import shipments must be attached, and as described above, negative reports for imports are not required.

Pacific - On the Pacific coast, the only relevant dealer permit requirement is for imported swordfish, as described above. Special dealer permits are not required for swordfish landed by U.S. vessels on the west coast. Pacific dealers file biweekly import reports with the SEFSC in Key Biscayne, FL. COEs must be attached, and negative reporting for imports is not required.



### **3.0 Description of the Alternatives**

#### **Alternative 1 - Create the Highly Migratory Species International Trade Permit (HMS ITP) - Final action**

This alternative would implement the ICCAT and IATTC statistical document programs as required by ATCA and TCA, respectively, by establishing a federal Highly Migratory Species International Trade Permit (HMS ITP) governing the import and export of bigeye tuna, Atlantic and Pacific bluefin tuna, southern bluefin tuna and swordfish. To achieve this, the swordfish dealer permit would be modified to remove importers, the Atlantic Tunas Dealer Permit would be modified to remove bluefin tuna import and exports, and the Pacific Bluefin Tuna Dealer Permit would be eliminated. This alternative would implement statistical documents for bigeye tuna, southern bluefin tuna, swordfish, and implement re-export certificates for Atlantic and Pacific bluefin tuna, bigeye tuna, southern bluefin tuna, and swordfish. A new biweekly HMS international dealer trade report would be created by combining elements of the biweekly Pacific bluefin tuna and swordfish import reports for biweekly reporting of Atlantic and Pacific bluefin tuna, bigeye tuna, southern bluefin tuna, and swordfish imports, exports, and re-exports. Although a dealer who trades both internationally and domestically may now need two permits, segregation of international dealers from domestic dealers will allow international reporting requirements to be addressed solely to international dealers, which will minimize burden and confusion for domestic dealers.

#### **Alternative 2 - Status Quo / No Action**

This alternative would maintain the status quo permitting and reporting arrangements (see section 2). This alternative is not preferred because there would be no changes to the existing reporting structure which would put the United States in non-compliance with the ICCAT and IATTC recommendations.

#### **Alternative 3 - Build on Existing Permitting and Reporting Systems**

This alternative would modify the Atlantic and Pacific tuna dealer permits to include dealers who export, import, or re-export southern bluefin tuna or bigeye tuna, and would modify the swordfish permit to include dealers who export or re-export swordfish. The additional reporting requirements that would be involved include southern bluefin tuna, bigeye tuna and swordfish statistical documents, re-export certificates, bluefin tuna re-export certificates, and modified biweekly reports. This alternative is not preferred because it would increase the number of permits required for many dealers and increase the complexity associated with monitoring the imports and exports of HMS and with complying with regulations. Also, it would inhibit future expansion of the permitting system and would not dissociate unrelated international and domestic activities.

#### **Alternative 4 - Create a new HMS International Trade Permit that does not cover southern bluefin tuna trade**



This alternative would establish a federal HMS ITP governing the import and export of bigeye tuna, Atlantic and Pacific bluefin tuna, and swordfish but would not include southern bluefin tuna. Southern bluefin is not specifically included in either the ICCAT or IATTC recommended trade program. This alternative is not preferred since it would compromise the effectiveness of the United States' implementation of the statistical document program for bluefin tuna (see section 1.2). Southern bluefin would continue to be managed with a separate CBP tariff code.



## 4.0 Economic Evaluation

This section examines the anticipated economic impacts resulting from the Final rule. NOAA Fisheries anticipates that the only impacts of the permit and reporting requirements will be on seafood dealers.

### 4.1 Number of Dealer Permit Holders

Under Alternative one (final action), the total number of dealers required to obtain the HMS ITP (number of respondents) is estimated to be 960 (see Table 1). This figure is expected to be an overestimate since the total number of dealers who currently possess the Swordfish Dealer Permit and Atlantic Tuna Dealer Permit are included in the estimate. Each of these permits covers dealers that may only purchase swordfish or bluefin tuna domestically. Under the other alternatives, NOAA Fisheries would expect the number of impacted dealers to remain approximately the same. Upon implementation of this rule, the number of dealers operating solely in domestic or international transactions will be more clearly defined, and the number of actual dealers is expected to be much lower than the estimate. The number of dealers obtaining the Swordfish Dealer Permit and Atlantic Tunas Dealer Permit is also expected to decrease since dealers solely operating in international transactions will no longer be required to obtain these permits.

**Table 1.** Summary of activities covered by the HMS ITP including importing (imp), exporting, and re-exporting (exp) as of 2003. The number of dealers that would need to purchase the HMS ITP is estimated.

Activity	Number of Dealers	Method for Estimating Number of Dealers per Activity
<b>NATIONWIDE</b>		
Swordfish Imp	315	Number of swordfish dealer permits (covers domestic purchase of Atlantic swordfish from vessels and swordfish import)
Swordfish Exp	30	Estimated no. of dealers that could export swordfish in the future but are not currently importing or purchasing domestically
<b>ATLANTIC</b>		
Bluefin tuna Imp/Exp	522	Number of Atlantic Tunas Dealer Permits (covers international trade of Atlantic bluefin tuna and domestic purchase of Atlantic bluefin tuna & bigeye tuna)
Bigeye tuna Imp/Exp	42	Estimated no. of dealers internationally trading Atlantic bigeye tuna but not purchasing bigeye tuna domestically
<b>PACIFIC</b>		
Bluefin tuna Imp/Exp	39	Number of Pacific Tuna Dealer Permits (covers international trade of Pacific bluefin tuna)
Bigeye tuna Imp/Exp	12	Estimated number of dealers internationally trading Pacific bigeye tuna



<b>TOTAL</b>	<b>960</b>	<b>Estimated number of HMS ITPs</b>
--------------	------------	-------------------------------------

## 4.2 Gross Revenue of Dealers

It is difficult to assess the gross revenue of individual dealers due to the inability to determine the quantity of imports, exports, and re-exports each individual dealer handles. Some dealers handle larger quantities of fish than others and some handle only domestic product. In addition, the market prices for HMS fluctuate frequently and vary considerably on an annual basis. The data in Table 2 is taken from the U.S. Census Bureau which gets reports from U.S. CBP. It provides an estimate of how much bigeye and bluefin tuna, southern bluefin tuna, and swordfish products enter and leave the country each year and their value.

**Table 2.** Foreign Trade Data from the U.S. Census Bureau including total imports, exports, and re-exports to or from the United States.

	Import		Export		Re-Export	
	kg	\$	kg	\$	kg	\$
<b>Bigeye Tuna</b>						
<b>1998</b>	NA	NA	NA	NA	NA	NA
<b>1999</b>	NA	NA	NA	NA	NA	NA
<b>2000</b>	NA	NA	NA	NA	NA	NA
<b>2001</b>	4,820,039	26,025,163	NA	NA	NA	NA
<b>2002</b>	6,632,219	40,551,787	104,336	241,324	10,461	22,002
<b>Bluefin Tuna</b>						
<b>1998</b>	261,894	3,693,818	1,551,277	10,643,876	33,718	361,183
<b>1999</b>	583,986	3,931,604	1,183,339	9,374,950	38,144	208,734
<b>2000</b>	400,598	7,181,652	1,044,863	11,206,529	13,043	61,855
<b>2001</b>	626,753	9,934,284	1,020,023	10,700,208	11,415	74,194
<b>2002</b>	1,339,736	12,916,924	922,530	10,741,564	167,384	2,399,256
<b>Southern Bluefin Tuna</b>						
<b>1998</b>	NA	NA	NA	NA	NA	NA
<b>1999</b>	NA	NA	NA	NA	NA	NA
<b>2000</b>	NA	NA	NA	NA	NA	NA
<b>2001</b>	NA	NA	NA	NA	NA	NA
<b>2002</b>	582,893	1,274,310	0	0	0	0
<b>Swordfish</b>						
<b>1998</b>	16,281,831	82,577,668	0	0	0	0

<b>1999</b>	13,842,970	71,726,266	0	0	0	0
<b>2000</b>	14,314,075	85,579,449	0	0	0	0
<b>2001</b>	13,697,592	81,899,112	0	0	0	0
<b>2002</b>	15,711,975	88,266,887	0	0	0	0

NA – not available from this data source

### 4.3 Variable Costs and Net Revenues

There are two primary costs associated with the alternatives: the cost of the permit and the cost of reporting. Under the final action and alternative 4, U.S. dealers would be required to obtain the initial permit, and then renew their permit annually. Both of these applications take an estimated 5 minutes to complete. Therefore, the total reporting burden for the permit is 960 respondents x 0.083 hours per response = 79.7 hours. At an opportunity cost of \$15 per hour, this totals \$1,196 and is less than \$2 per dealer. In addition to the time burden, NOAA Fisheries anticipates a permitting fee of \$100. Assuming each dealer applies for the permit, the total cost could be \$96,000 (960 x \$100). The total postage cost for submitting the form will be \$0.37 x 960 = \$355.20.

Under alternative 2, there would be no additional permit related costs. Under Alternative 3, the same number of dealers would require a permit as in Alternative 1 (Selected alternative); however, the type of permit would vary. Atlantic and Pacific tuna dealer permits are issued free of charge, and swordfish dealer permits cost either \$100 or \$25 each, depending upon the number of Southeast Region issued permits the dealer possesses. The difference in cost associated with this alternative and alternative 1 (Selected alternative) ranges from \$0 to \$100 per dealer.

The number of dealers that would be required to report (Table 3) under the final action differs from the number of dealers required to have the HMS ITP since international dealers are also affected by the reporting requirements. Foreign dealers impacted by this collection include exporters that must fill out statistical documents and obtain validation prior to shipment to the US. The number of foreign respondents was estimated by identifying the number of countries exporting bigeye tuna (40), bluefin tuna, (20), southern bluefin tuna (4) or swordfish (29) to the United States, and assuming that there were approximately 10 active exporters per country. The same number of dealers would be impacted under alternative 3 since all dealers that import and/or export the affected species would be required to report. Slightly fewer dealers may be impacted under alternative 4 since there may be some dealers that do not import or re-export species other than southern bluefin tuna, and these dealers would be excluded from reporting requirements.

**Table 3.** Estimated number of dealers affected by reporting requirements by alternative.

<b>Dealer Type</b>	<b>Number of Dealers</b>
HMS International Trade Permits	960



Foreign Dealers (bluefin, bigeye, swordfish)	890
Foreign Dealers (southern bluefin)	40
<b>TOTAL (Alt. 1 &amp; 3) / Alt 4</b>	<b>1890 / 1850</b>

Burden estimates for the trade-tracking components of this action are calculated in Table 4. The new reporting requirements include the implementation of a statistical document and re-export certificate for bigeye tuna, southern bluefin tuna, and swordfish and a re-export certificate for bluefin tuna. The annual number of shipments by species for each trade activity (import/export/re-export) was estimated based on data obtained from the CBP and Census databases. CBP data track total imports, and provide the total annual weight and number of shipments for each species. This information was used to calculate the average weight of each shipment. Total weight for imports, exports, and re-exports by species is available in the Census database, (which is generally considered to be more accurate than the CBP database). By dividing the total weight (Census data) by weight per shipment (CBP data) the total number of shipments can be estimated and is given in Table 4.

**Table 4.** International dealer trade reporting burden estimates for bigeye tuna (BET), bluefin tuna (BFT), southern bluefin tuna (SBT) and swordfish (SWO) statistical documents (SD), re-export certificates (RXC), and shipment certification. Estimates are given by species for imports (I), exports (E) and re-exports (R).

Activity	# of SDs or RXCs (based on # of shpmts for 2001)	SD/RXC Response Burden (.08 hrs per form)	Validation Burden (2 hrs per shipment)		TOTAL HOURS
			Domestic	Foreign	
BET					
I	6663	533		13,326	13,859
E	163	13	326		339
R	1106	88	2212		2300
BFT (Atlantic/Pacific)					
R (A)	11	1	22		23
R (P)	4	1	8		9
SBT2					
I	579	46		1158	1204
R	12	1	24		25
SWO					
I	8664	693		17,328	18,021
E	0	0	0		0
R	0	0	0		0



<b>TOTAL</b>	11,202	1,375	2,592	31,812	<b>35,780</b>
--------------	--------	-------	-------	--------	---------------

<sup>1</sup>Domestically landed BFT are required to be tagged, which is used for certification of exports. Burden hours are calculated separately.

<sup>2</sup>Southern bluefin tuna (SBT) data are from 2001

The total burden associated with statistical documents, re-export certificates and validation is 35,780 hours or approximately 19 hours per dealer (37,592 / 1890). At an opportunity cost of \$15 / hour, costs would total \$285 annually per dealer and \$536,700 overall, including costs for foreign dealers. Statistical documents and re-export certificates would be mailed to NOAA Fisheries at a total cost of \$4144 (.37 x 11,202) or approximately \$2.20 per dealer.

There could be additional collateral costs to dealers in the form of loss of product quality from delayed shipments. This could result from the time necessary for obtaining government validation, and is primarily expected to be an issue for fish shipped from Hawaii or Guam since these locations are encumbered by restricted access to markets because of their isolated island geography. The ability for industry organizations or other government agencies to obtain validation authority should minimize these impacts. The potential impacts are expected to be minimal once businesses have incorporated the requirements into their business processes and slightly higher during the ramp-up phase of implementation.

U.S. dealers would also be required to submit the HMS International trade biweekly form for each two week reporting period. These forms are used to cross-check statistical document and re-export certificate data as well as collect economic data on import/export/re-export transactions. Assuming the total estimated number of dealers obtaining an HMS ITP (960) reported for every two week period during a year (24), a total of approximately 2300 biweeklies would be filed, or 24 biweeklies per dealer. Dealer costs include the cost of submitting these reports to NOAA Fisheries or .37 per 24 mailings for a total of approximately \$9.00 per year per dealer, or \$8,640 annually overall. Each biweekly takes approximately 15 minutes to complete. Assuming opportunity costs are \$15 per hour, cost to each dealer would be approximately \$90 (i.e. 24 x .25 x \$15) or a total cost of \$86,400 for all U.S. dealers annually.

Costs for dealers associated with permitting and reporting would not change from the current situation under the status quo alternative. However, without the ICCAT or IATTC required documentation, U.S. product might be denied entry to nations participating in international management programs. Since the nations responsible for receiving the greatest amount of imports of U.S. product are member nations, this alternative could have serious negative consequences for U.S. exporters (see Table 3 for the value of recent U.S. exports).

Alternative 3 would be expected to result in a greater reporting burden than Alternative 1 (Selected alternative) since domestic and international dealers would be covered under the same permit, and frequently regulations apply to the entire permit holder category. Additional administrative burden in the form of confusion could also result from continuing to build on exiting systems for reporting of HMS trade. Alternative 4 would be expected to have slightly less reporting burden since SBT trade transactions would not be subject to trade monitoring requirements. This alternative could result in negative impacts to the international bluefin tuna

management program if Atlantic or Pacific bluefin are mislabeled as southern bluefin tuna. This could confound trade data by underestimating trade in bluefin and could provide a lucrative market for bluefin obtained through illegal, unreported or under-reported fishing.

#### **4.4 Expected Economic Impacts of the Alternatives Considered**

NOAA Fisheries expects only minor negative economic impacts from the final action because the measures only involve adjusting the permitting and reporting requirements. The no action/status quo alternative (alternative 2) would make no changes to current programs. The remaining three alternatives would implement the recommended trade programs for swordfish, bigeye tuna, and bluefin tuna. The final action and alternative 4 would implement the record-keeping requirements by linking them to the newly established HMS international dealer trade permit for dealers of these species. The final action differs from alternative 4 by requiring trade monitoring for southern bluefin tuna in addition to the other species, in order to facilitate program effectiveness, whereas alternative 4 would not require the use of SBT statistical documents or require a dealer permit for trading in SBT. Alternative 3 would implement the trade program by building onto existing dealer permits and associated record-keeping requirements. Overall, the immediate costs associated with the final action and alternatives 3 and 4 are expected to be greater than for alternative 2 (no action); however, access to international markets could be reduced under the status quo, which is expected to have much greater negative economic impacts in the longer term.

The initial cost of obtaining the permit for each U.S. dealer under the final action and alternative 4 is expected to be \$100 plus the time of filling out the form and the cost of postage, which would be approximately \$2. NOAA Fisheries expects this amount to be a minor negative impact for the affected dealers. The permit-associated cost for the final action and alternative 4 differs from building onto existing systems (alternative 3) in an amount between \$0 to \$100 per dealer, depending upon the other permits held by the dealer. Under alternative 3, if the dealer was required to have an Atlantic or Pacific tuna permit to trade in bigeye tuna or southern bluefin tuna, there would be no associated cost since these permits are issued free of charge. However, if the dealer was required to have a swordfish permit for importing or exporting swordfish, the cost could be either \$25 or \$100, depending upon whether the dealer has another permit issued by the Southeast Region of NOAA Fisheries. NOAA Fisheries estimates that approximately 960 dealers would be impacted by the final action and alternative 3. Alternative 4 would entail similar costs per dealer as alternative 1 (Selected alternative); however, slightly fewer dealers would be impacted since dealers trading in southern bluefin tuna without trade in any of the other covered species would not be required to purchase a permit.

NOAA Fisheries estimates that approximately 1,890 dealers (930 foreign and 960 domestic) could be impacted by the reporting requirements under the final action and alternatives 3 and 4. Impacts for each of these alternatives is expected to be approximately the same since all dealers must submit the required reports, regardless of the type of permit. The annual economic impacts would be approximately \$386 per dealer, including statistical document and re-export certificate opportunity costs (\$285) and mailing (\$2), biweekly opportunity cost (\$90) and mailing (\$9). This amount will vary depending on the volume of



HMS imported or exported or the number of forms submitted. Alternative four would eliminate the need for reporting southern bluefin tuna trade, so costs would be slightly reduced. Finally, dealers could be negatively impacted if the time burden interferes with how dealers conduct their business; however, NOAA Fisheries does not expect the direct or indirect costs or associated time burden of additional reporting to be more than a minor negative impact for the affected constituents once the new requirements have been incorporated into dealer business processes.

Several public comments were received regarding the economic impacts of the proposed rule. Please see Section 8.0, comments five through seven for the specific public comments and agency responses. The primary economic concern identified by the public was the potential impact of the validation requirement, including the potential dollar cost of validation and the time cost of validation procedures. Of particular concern to island businesses on Guam and Hawaii was the potential that validation procedures could delay shipments significantly enough to impact shipment schedules. Other economic concerns expressed by the public included general concern about the reporting burden and costs of the reporting requirements.

NOAA Fisheries provided several clarifications in the final rule that will result in reduced reporting burden and costs. The final rule eliminated the permitting, documentation, reporting, and record-keeping requirements associated with fresh bigeye tuna. Although documentation requirements apply to all import shipments of covered species as indicated in the proposed rule; the final rule clarifies that reporting requirements apply only to entries for consumption, thus reducing the number of shipments subject to the reporting requirements. Similarly, the HMS ITP is required only for importers making entries for consumption, rather than importers making any type of entry, as indicated in the proposed rule.

In addition, the final rule reduces the validation burden associated with re-exports so that re-exported shipments which are not subdivided or consolidated with other shipments require neither re-export certificates nor validation. The final rule also clarifies that re-export certificates would only be required for re-exports that first entered the United States (or insular possession) as an entry for consumption, which may reduce the reporting burden associated with re-exports. Finally, NOAA Fisheries has determined that the provisions for validation by non-government organizations (including industry organizations) or other government agencies in both the proposed and final rule will provide the industry with sufficient flexibility to establish validation programs which will both satisfy documentation requirements and minimize industry costs. This conclusion is based in part on NOAA Fisheries' experience with other trade monitoring programs.

NOAA Fisheries recognizes that there will be an initial start-up period during which dollar and time costs will be slightly higher, and has included a protracted implementation date for the final rule in part to help address this issue. The extended implementation date will provide time for authorization of entities to provide validation and for all affected businesses to adjust their business processes and incorporate the documentation, reporting, and record-keeping requirements in the most efficient manner.

## **5.0 Regulatory Impact Review**

### **5.1 Identification and Analysis of the Problem**

Please see section 1.1 of this document for a description of the need for the final rule.

### **5.2 Description of the Management Objectives**

Please see sections 1.0 and 2.0 of this document for a description of the management objectives for the final rule.

### **5.3 Possible Economic Benefits of the Final Management Measures**

The final management measures are those described under the selected alternative (Alternative 1) in Section 3.0, including the implementation of the HMS international trade permit, statistical document programs for frozen bigeye tuna, swordfish, and southern bluefin tuna, and the addition of a re-export certificate to the bluefin tuna statistical document program. There are a number of potential economic benefits of these management measures. The objectives of the program as identified in sections 1.0 and 2.0 include the elimination of IUU fishing for the covered species and improving understanding of international trade for these species. Meeting these objectives would improve international management of these stocks, thus resulting in overall benefits to the fisheries. Specific benefits to the United States could also accrue since the management measures will facilitate trade with RFMO member nations.

### **5.4 Possible Economic Costs of the Final Management Measures**

The economic costs of the final management measures include the costs described in Sections 4.3 and 4.5. In summary, these costs include the dollar costs associated with obtaining the HMS international trade permit, and the reporting burden. The cost of the final management measures will be slightly below those estimated in section 4.3 because of the clarifications provided in the final action. The final action applies to only frozen bigeye tuna, so the overall estimated number of shipments will be lower than originally anticipated. Permits, reporting, and record-keeping will only be required for imports that enter as entries for consumption, which may also reduce the overall estimated number of shipments. Finally, the rule clarifies that re-export certificates and validation are only necessary for re-exports that are either consolidated or subdivided, which will also reduce the reporting burden.

### **5.5 Conclusions**

Under E.O. 12866, an action is considered significant if the regulations result in a rule that may:



1. Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
2. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
3. Materially alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
4. Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866.

The final rule is not a significant regulatory action under E.O. 12866 since it does not meet the above criteria. As described in Section 4.5 and 6.2, this action would not result in major economic burdens on small entities or adversely effect the economy in anyway. NOAA Fisheries consulted with the Bureau of Customs and Border Protection and Census Bureau to ensure consistency with regulatory requirements of those agencies. The rule will not materially alter entitlements, grants, user fees, loan programs, or the rights and obligations of such recipients. Finally, this rule does not raise novel legal or policy issues. As noted earlier, the program in this action is similar to the existing bluefin tuna statistical document program.



## **6.0 Final Regulatory Flexibility Analysis (FRFA)**

This FRFA is prepared in compliance with the Regulatory Flexibility Act and provides analyses of the economic benefits and costs of the preferred alternatives on small entities. Certain elements required in a FRFA are also required as part of a Regulatory Impact Review (RIR). Thus, this section should be considered only part of the FRFA; the rest of the FRFA can be found throughout this document.

### **6.1 Description of the Reasons Why Action is Being Considered**

Please see section 1.1 of this document for a description of the need for the final rule.

### **6.2 Statement of the Objectives of, and Legal Basis for, the Final Rule**

Please see sections 1.0 and 2.0 of this document for a description of the objectives and legal basis for the final rule.

### **6.3 A Summary of the Significant Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis, a Summary of the Assessment of the Agency of Such Issues, and a Statement of any Changes Made in the Rule as a Result of Such Comments**

NOAA Fisheries received many comments on the proposed rule and the RIR/IRFA during the public comment period. Some comments were specific to the IRFA, while other comments addressed more general economic impacts associated with the preferred alternatives in the initial analysis. Section 8.0 includes a more detailed review of these comments and the Agency's responses. The comments are addressed in general below.

The primary economic concern identified by the public was the potential impact of the validation requirement. The potential dollar cost of validation and the time cost of validation procedures was cited by many commenters. The possibility that validation procedures would delay shipments significantly enough to impact shipment schedules was of particular concern to island businesses on Guam and Hawaii which rely on inflexible air freight schedules. Other economic concerns expressed by the public included general concern about the costs of the reporting requirements.

NOAA Fisheries based the proposed rule and initial analysis in part on experience with similar trade monitoring programs including the ICCAT BFT statistical document program and swordfish certificate of eligibility. It is noteworthy that public comments expressing the most significant concerns came from regions with less experience in trade monitoring programs, and it is expected that public concern will be alleviated with experience after this program is implemented.

In response to public comments, NOAA Fisheries provided several clarifications in the final rule that will result in reduced reporting burden and costs. The final rule eliminates the permitting, documentation, reporting, and record-keeping requirements associated with fresh

bigeye tuna. Although documentation requirements apply to all import shipments of covered species as indicated in the proposed rule; the final rule clarifies that reporting requirements apply only to entries for consumption, thus reducing the number of shipments subject to the reporting requirements. Similarly, the HMS ITP is required only for importers making entries for consumption, rather than importers making any type of entry, as indicated in the proposed rule.

In addition, the final rule reduces the validation burden associated with re-exports so that re-exported shipments which are not subdivided or consolidated with other shipments require neither re-export certificates nor validation. The final rule also clarifies that re-export certificates are only required for re-exports that first entered the United States (or insular possession) as an entry for consumption, which may reduce the reporting burden associated with re-exports.

The tuna transshipment industry on Guam poses a trade scenario that differs from most other U.S. ports, and the final rule clarifies provisions relative to insular possessions in order to address and provide for transshipment activity. Specifically, the final rule provides the opportunity for insular possessions with separate customs territories to establish documentation requirements for imports entered other than for consumption.

NOAA Fisheries has determined that the provisions for validation by non-government organizations (including industry organizations) or other government agencies in both the proposed and final rule will provide the industry with sufficient flexibility to establish validation programs which will both satisfy documentation requirements and minimize industry costs. This conclusion is based in part on NOAA Fisheries' experience with other trade monitoring programs. NOAA Fisheries recognizes that there will be a start-up period during which interested parties will apply for authorization to validate trade documentation, and has included a protracted implementation date for the final rule to address this issue. The extended implementation date will also provide time for all affected businesses to adjust their business processes and incorporate the documentation, reporting, and record-keeping requirements in the final rule in the most efficient manner.

#### **6.4 Description and Estimate of the Number of Small Entities to Which the Final Rule Will Apply**

NOAA Fisheries considers all potential permit holders to be small entities. A description of the affected fisheries can be found in Section 2.0 of this document. As described in Section 4.1, there are currently approximately 960 HMS dealers that are expected to need the International Trade Permit and approximately 1,890 respondents that will be impacted by the reporting requirements of the final action. The measures in this rule will not apply to other participants in HMS fisheries, so the impacts will be limited.

#### **6.5 Description of the Projected Reporting, Record-keeping, and Other Compliance Requirements of the Final Rule**

The final action would require all businesses that import as an entry for consumption, export, or re-export swordfish, bigeye tuna, bluefin tuna or southern bluefin tuna to obtain a



valid federal HMS ITP. Under the final rule, trade in other federally-managed HMS fisheries would not trigger the HMS ITP requirement. The scope of the permit may be expanded in the future to include other HMS should NOAA Fisheries deem it necessary based on domestic or international management needs. Reporting requirements attached to this permit would, at a minimum, include statistical documents, re-export certificates, and bi-weekly summary reports. The statistical documents are species-specific and generally contain vessel information, area of catch, product description, export and import certification and government validation information. Biweekly reports generally include import/export dates, customs information, product and shipment information, and some economic information. The re-export certificates are species-specific and generally contain information regarding nation of re-export, product information, as well as certification and validation information. NOAA Fisheries expects that the final action will clarify and simplify current regulations and should also minimize the compliance requirements. NOAA Fisheries has received approval from the Office of Management and Budget for the HMS ITP information collection under 0648-0327 and dealer reporting under 0648-0040.

#### **6.6 Identification of all Relevant Federal Rules which may Duplicate, Overlap, or Conflict with the Final Rule**

Dealers in the affected fisheries must comply with regulations that stem from a number of international agreements, domestic laws, and other FMPs. These domestic laws include, but are not limited to, the Magnuson-Stevens Fishery Management and Conservation Act, the Atlantic Tunas Convention Act, the Tuna Conventions Act, the High Seas Fishing Compliance Act, the Marine Mammal Protection Act, the Endangered Species Act, the National Environmental Policy Act, the Paperwork Reduction Act, and the Coastal Zone Management Act. NOAA Fisheries strives to ensure consistency among the regulations with Federal fishery management councils and other relevant agencies. NOAA Fisheries does not believe that the final rule will conflict with any relevant regulations, federal or otherwise. The existing Swordfish Dealer Permit and Atlantic Tunas Dealer Permit would no longer include the international components of their requirements to avoid duplication with the HMS ITP.

#### **6.7 Description of any Significant Alternatives to the Final Rule that Accomplish the Stated Objectives of Applicable Statutes and that Minimize any Significant Economic Impact of the Final Rule on Small Entities**

One of the requirements of a FRFA is to describe any alternatives to the final rule which accomplish the stated objectives and which minimize any significant economic impacts. These impacts are discussed below and in other sections of this document. Additionally, the Regulatory Flexibility Act (5 U.S.C. § 603 (c) (1)-(4)) lists four types of categories of options which should be discussed. These categories are:

1. Establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;
2. Clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;
3. Use of performance rather than design standards; and



4. Exemptions from coverage of the rule for small entities.

Under the first and fourth categories listed above, NOAA Fisheries considers all dealers to be small entities. Thus, in order to meet the objectives of this final rule and address the management concerns at hand, NOAA Fisheries cannot exempt small entities or change the reporting requirements for small entities. The third category is not applicable, since ICCAT and IATTC have very specific requirements for implementation of the trade tracking programs addressed in this action. The final measures satisfy the goal of category two by consolidating and simplifying the existing dealer permitting and reporting structure. NOAA Fisheries is implementing this final rule to comply with ICCAT and IATTC recommendations which are negotiated between many countries. Thus, the final measures cannot easily be adjusted or modified.

The final action implemented by NOAA Fisheries meets the requirements of IATTC and ICCAT while simplifying the permitting and reporting processes. The final action also eases the burden of trade monitoring associated with the improved tracking of bigeye tuna, southern bluefin tuna, bluefin tuna and swordfish. To achieve a similar level of oversight with regard to trade monitoring, several modifications would have to be made to the existing permitting and reporting structure. These changes, described as alternative 3 would increase the compliance burden on the dealers and would increase the administrative burden on NOAA Fisheries. The no action alternative (alternative 2) would not meet the regulatory requirements of the IATTC and ICCAT so is not deemed a satisfactory management alternative. Alternative 4 would jeopardize the enforceability and effectiveness of ICCAT's bluefin tuna statistical document program. As noted above, changes to the final rule further minimize potential impacts of this rule. Adjustments to the preferred alternative in the final action that reduced requirements on small entities included clarifying that import permitting and reporting requirements are limited to importation as an entry for consumption, and that validation would not be required for re-exports from the United States of shipments that had neither been subdivided nor consolidated and remained true to the original import statistical document. In addition, fresh bigeye tuna is excluded from permitting, documentation and reporting requirements. NOAA Fisheries believes that there are no other alternatives that would minimize any impacts of the final action and meet the goals of the program and legal obligations.

During the public comment period, a commenter suggested that several other alternatives should have been analyzed in the IRFA (Section 8.0, comment 18). Most of these other alternatives either did not meet the objectives of the rulemaking or did not serve to simplify the requirements placed on small entities. As stated above, the suggested alternative exempting fresh product was implemented in the final rule for bigeye tuna although not reviewed in the IRFA as an "alternative" per se.





## **7.0 Other Considerations**

### **7.1 Magnuson-Stevens Fishery Management and Conservation Act**

The final rule is consistent with the applicable National Standards (NS) set forth in 50 C.F.R. part 600. The primary objective of this rule is to document trade of covered species rather than manage harvest of fishery resources, so the NS that address fishing practices do not apply. The following NS apply to fish harvest or prosecution of a fishery, and are not applicable to this rulemaking: NS 3, 5, 6, 8-10.

The permitting and reporting requirements will improve data available for fishery management and thus help prevent overfishing (NS1). The analyses that support this rulemaking, including the RIR/FRFA and Paperwork Reduction Act analyses, are based on the best scientific information available and are consistent with NS 2. The trade program will be applied uniformly across the United States, and will not discriminate between residents of different states, as required by NS 4. The PRA analysis establishes that the cost of the reporting requirements in this program have been minimized and duplication has been avoided to the extent practicable, as required under NS 7.

### **7.2 Paperwork Reduction Act**

The reporting burdens associated with this rulemaking were divided into two types of burden. The burden associated with the HMS ITP was analyzed in one information collection (0648-0327) while the reporting burden was analyzed in another collection (0648-0040). A 60 day public comment period was provided for each collection (68 FR 7107 and 68 FR 11809, respectively). An analysis of the impact of the reporting requirements was presented in the proposed rule (69 FR 16211) and reviewed by U.S. Office of Management and Budget (OMB). NOAA Fisheries received one comment on the information collection during the public comment period for the proposed rule which was responded to in Section 8.0 (Summary of Public Comments and Agency Responses to Draft RIR/IRFA) of this document. The reporting collection was approved by OMB on June 25, 2004 and the permitting collection was approved on July 1, 2004.

### **7.3 E.O. 13132**

The final rule does not contain regulatory provisions with federalism implications sufficient to warrant preparation of a Federalism Assessment under E.O. 13132.





## 8.0 Summary of Public Comments and Agency Responses to Draft RIR/IRFA

### Scope

Comment 1- Supporting and opposing comments were received for the proposal to include fresh bigeye tuna in the statistical document program. Commenters that opposed including fresh bigeye tuna in the program stated the following: that they primarily deal in fresh bigeye tuna; that a fresh bigeye tuna program should be delayed until the statistical document program for frozen bigeye tuna has been implemented and evaluated to determine whether including fresh bigeye tuna is necessary; and that including fresh bigeye tuna would be more expensive than a program solely for frozen bigeye tuna. Commenters that supported including fresh bigeye tuna in the program stated that it would be less confusing to implement a comprehensive bigeye tuna trade program from the onset. Another commenter suggested including fresh bigeye tuna after a defined time period. One commenter requested that all fresh products be exempted, and another commenter noted that the rationale for including bigeye tuna in the proposed rule was unclear.

Response - The trade monitoring program in the final rule does not include fresh bigeye tuna. Current ICCAT and IATTC recommendations apply only to frozen bigeye tuna, because both organizations recognize that numerous implementation issues require resolution prior to application of a statistical document program for fresh bigeye tuna. For the sake of comprehensiveness, NMFS requested comment on inclusion of fresh bigeye tuna to inform the public of potential future actions by ICCAT, IATTC or other relevant regional fishery management organizations (RFMOs) and identify public concerns. A similar approach was taken in the 1993 ICCAT recommendation for a bluefin tuna statistical document program. After implementation issues regarding trade of fresh bluefin tuna had been further discussed and resolved, ICCAT adopted a recommendation extending the program to include fresh product the following year. Since NMFS implemented a certificate of eligibility (COE) for fresh and frozen swordfish imports in 1999, and U.S. export of swordfish and trade of southern bluefin tuna southern bluefin tuna is limited, NMFS does not anticipate implementation issues for fresh products other than bigeye tuna. The new statistical document program applies to fresh and frozen swordfish and southern bluefin tuna and frozen bigeye tuna, and will replace the swordfish COE.

Comment 2- Several commenters supported implementing statistical document programs for all the species identified in the proposed rule, and one noted that the proposed approach of including similar species from all ocean areas is a critical factor in providing complete and comprehensive data for this program.

Response – The final rule establishes a trade monitoring program for fresh and frozen swordfish, southern bluefin tuna, and frozen bigeye tuna from all ocean areas. Swordfish and frozen bigeye tuna are included in the program in direct response to ICCAT and IATTC recommendations. Southern bluefin tuna is included to ensure the effectiveness of the program by eliminating potential mislabeling and to support the Commission for the Conservation of Southern Bluefin Tuna's (CCSBT) statistical document program. Fish from all ocean areas are included to ensure effective implementation of the RFMO recommendations since each species

is geographically indistinguishable and similar species can be difficult to discern based on external examination.

Comment 3- One commenter congratulated NMFS for developing a comprehensive approach to enhance the tracking of highly migratory species (HMS) from all ocean areas and to promote the international objective of eliminating illegal, unregulated, and unreported (IUU) fishing.

Response – International statistical document programs have been effectively employed to reduce IUU fishing, which is an important goal of RFMOs such as ICCAT and IATTC. Although these programs place an administrative burden on U.S. businesses, the success of these programs will benefit the future of the impacted stocks as well as the businesses that rely on those resources. NMFS appreciates the cooperation of all U.S. businesses affected by this final rule, and will continue to work to minimize the impact of reporting requirements while implementing an effective trade monitoring program.

Comment 4- A commenter expressed concern that some of these requirements might be passed on to vessel owners, and asked how this rule might impact vessel owners. The commenter also asked whether the statistical document program could negatively affect future quota allocations.

Response – The permitting and reporting requirements apply in general to businesses involved in international trade of the HMS species indicated above. Vessel owners who also happen to export or import HMS species would need to comply with requirements specified in the rule. Quota allocations are determined after extensive deliberations using numerous sources of data and public input. It is premature to speculate what impact, if any, a statistical document program could have on future quota allocations. None the less, experience has shown that more data and information proves to be of greater benefit in determining the equitable size and allocation of quotas as opposed to less or limited data.

### **Economic Impacts and Reporting Burden**

Comment 5 - Several commenters expressed concern over the potential impact of validation on product quality and export opportunities. Commenters noted that travelling to reach a government office for validation could be time consuming, and that export and re-export shipments could be delayed since government validation has not been available on a 24 hour/7 days per week basis for similar programs. In particular, numerous commenters expressed concern about the effect of the validation requirement on airfreight exports, which is of special concern for island businesses that rely upon limited air transportation schedules. Commenters stated that validation should be expedient and efficient so as not to interfere with meeting limited and inflexible airfreight schedules, and that it should be inexpensive or free. Several commenters suggested options for meeting the proposed validation requirements, including validation of exports after they are shipped; on-line validation; use of a HACCP (hazard analysis and critical control point) type of program where exporters validate their own shipments; annual issuance of dealer validation authority similar to the process for shellfish validation with monthly renewal unless the validating official failed a spot-check inspection; use of a domestic smart tag program that could include barcodes and computer radio tags with processing and

temperature data; and having a government officer stationed at each U.S. Customs and Border Patrol (CBP) port 7 days per week to provide validation services. A commenter stated that there is a need to balance the need for third party validation and the credibility of the program data carefully, and that a continuous review of compliance and data accuracy would strengthen program credibility.

Response – Government or government-authorized validation is required to ensure that trade of covered species includes explicit government involvement, so that nations are able to accurately report trade activity to RFMOs. In order to address validation time and dollar cost concerns, statistical documents and re-export certificates may be validated by either NMFS or another entity authorized by NMFS. A non-government organization (e.g. industry group) or other government agency may obtain authorization to validate documents, at no cost, from NMFS by submitting a written description of the procedures to be used for verification of information to be validated, a list of names addresses, and telephone/fax numbers of individuals to perform validation, and an example of the stamp or seal to be used. NMFS must respond within 30 days, and if approved by NMFS, the authorization would take effect after the relevant RFMOs are notified. NMFS appreciates and fully considered the comments that were provided in efforts to produce a validation system that is both cost-efficient and effective. In this rule, NMFS has attempted to minimize costs to the industry and government associated with validation while fulfilling the requirements of the RFMO recommendations. Implementation of the regulatory requirements in this final rule will provide further opportunities for collaboration with interested parties to develop a program that is both efficient for all parties involved and provides the required trade data.

Comment 6 - A number of commenters stated that the proposed reporting requirements would negatively impact their businesses. One commenter stated that he had discontinued shipments of frozen bigeye tuna to Japan because of the reporting burden that had recently been required by Japan and is being proposed in this rule. Another commenter stated that it will be infeasible for his business to export swordfish for the same reason. A commenter stated that additional staff would be required for his business to fulfill the proposed reporting requirements. A commenter noted that the current fiscal climate within the industry made this a particularly bad time to impose costly reporting requirements. A commenter stated that any financial burden associated with this rule should be on the Federal government. Several commenters stated that the proposed reporting requirements were inevitable and not of concern.

Response – NMFS' intent with this final rule is to meet the mandated requirements while providing continued opportunities for trade of the covered species with the minimum required reporting burden. The use of statistical documents and re-export certificates (including document validation) for international trade of bluefin tuna, bigeye tuna, and swordfish are explicitly required by RFMOs such as ICCAT and IATTC. This final rule is intended to facilitate trade of the covered species, particularly to other RFMO member nations. Without this program, U.S. trade could be severely limited, which would negatively impact U.S. businesses.

NMFS made a number of clarifications to the final rule with the intent, in part, to reduce reporting burden in response to public comments. Permitting, documentation, reporting and record-keeping requirements for bigeye tuna are limited to frozen products in the final rule rather

than fresh and frozen products as indicated in the proposed rule. Permitting, reporting, and record-keeping requirements for imports are reduced to apply only to entries for consumption rather than all imports. In addition, re-export certificates and subsequent validation in the final rule are only required for re-exports of products that have either been split or consolidated for re-export. NMFS also recognizes that during the initial start-up period, dollar and time costs for industry implementation of the rule will be slightly higher, and NMFS included a protracted implementation date for effectiveness of the final rule in part to help address this issue. The extended implementation date will provide time for authorization of entities to provide validation and for all affected businesses to adjust their business processes and incorporate the documentation, reporting, and record-keeping requirements in the most efficient manner. NMFS also intends to design the implementation program to minimize associated reporting costs.

Comment 7 - A commenter stated that the IRFA understates time and cost burdens associated with the action, and that the impact of the reporting requirements on some participants has not been analyzed. The commenter stated that the supporting documentation fails to assess the cost of private vendors for validation, or the impact of a lack of timely validations on Pacific exporters, and that the use of biweeklies is contrary to the Paperwork Reduction Act.

Response – NMFS estimated the time and cost burden associated with the rule based on costs associated with similar programs including the bluefin tuna statistical document program and the swordfish import monitoring program. Both of these programs require dealer permits and reporting similar to those included in this program. For example, the cost of the options available for validation are assessed relative to the programs that are currently in place, which do not include a fee for use of an authorized validation service. Exact estimates of numbers of transactions (particularly exports) are difficult to ascertain prior to implementation of this rule, although existing Census Bureau export data and U.S. Customs and Border Protection import data help provide estimates of magnitude for and number of shipments over recent years. Overall burden estimates associated with these regulations are expected to be an overestimate, given that the calculations included fresh bigeye tuna which has been excluded in the final rule. In addition, the reduction of reporting requirements to apply only to consumption entries, and limiting of re-export documentation requirements as indicated in the previous response, are also expected to reduce reporting burden. Each reporting requirement implemented by this rule was assessed by the U.S. Office of Management and Budget (OMB) for compliance with the Paperwork Reduction Act. A 60-day public comment period was provided (68 FR 7107, 68 FR 11809) and the impact of the reporting burden was analyzed and provided in the supporting documents for the proposed rule (69 FR 16211). OMB approved implementation of the permitting and reporting requirements on July 1, 2004 and June 25, 2004, respectively. In addition, as discussed under a previous response, this final rule allows for the authorization of non-government or other government entities to provide validation services in order to provide flexibility for industry operations. These potential impacts are expected to be minimal once businesses have incorporated the requirements into their business processes, and slightly higher during the start-up phase of implementation.

#### Program Implementation

Comment 8 - Commenters asked several questions relative to the proposed Highly

Migratory Species International Trade Permit (HMS ITP), including when the permit would go into effect, how much it would cost, whether the permit would need to be purchased annually, and under which circumstances it would be required. Several commenters noted that it is unclear who the responsible party would be for preparing and submitting the proposed reporting documentation. A commenter asked whether customs brokers could sign statistical documents. Several commenters requested that electronic reporting be available, and that documents and instructions be provided on an internet website. A commenter requested that an appropriate level of outreach to Caribbean fish dealers be implemented regarding the proposed permitting and reporting requirements, and that a calendar renewal date for the proposed permit be implemented in order to help facilitate reminder notices from the agency and trade associations.

Response – The final rule provides for an extended implementation period for the permitting, documentation, reporting, and record-keeping requirements which will go into effect on July 1, 2005. The preferred approach, currently in the design phase, is to use electronic permitting and reporting processes on the internet, as much as possible, to minimize the reporting burden. Some specific details, including how much a permit will cost, how a permit can be obtained, and where reports will be submitted will be determined during development of the implementation plan. (Note that the estimate of a permit cost used in calculations of public reporting burden under the Paperwork Reduction Act was \$100 based on similar NMFS programs). The HMS ITP must be obtained by individuals or businesses that are classified as the consignee as identified on documentation required by CBP for entries for consumption, or the U.S. principal party in interest for shipment export. An agent such as a customs broker or freight forwarder may obtain an HMS ITP and submit required documentation. Alternatively, an agent may act on behalf of a permit holder; however, the importer or exporter, as defined in the rule, is the party legally responsible for the documentation, reporting, and record-keeping requirements of this rule.

. NMFS will provide educational information to dealers currently permitted by NMFS for purchase or trade of tunas and swordfish, and will work with states, commonwealths, and governments of insular possessions to provide information to other interested parties regarding implementation requirements and procedures. It is intended that the HMS ITP be obtained annually on a calendar year basis, and expire each year on December 31.

Comment 9 - Several commenters noted that some of the information proposed to be collected under this rule is already collected by other agencies including NMFS, FDA, CBP, U.S. Census Bureau, and the government of Guam. Commenters requested that NMFS coordinate both interagency and intra-agency and that the reporting burden on impacted businesses be reduced.

Response – NMFS continues to coordinate both internally and with other government agencies to eliminate unnecessary duplication of reporting by individuals affected by this final rule. The use of statistical documents and re-export certificates (including document validation) for international trade of bluefin tuna, bigeye tuna, and swordfish is explicitly required by ICCAT and IATTC. Without the requirements implemented under this final rule, international trade of these species, particularly exports to other RFMO member nations, could be negatively impacted. NMFS' intent with this final rule is to provide continuing opportunities for trade of

the covered species with the minimum required reporting burden. As noted in the response to Comment 7, NMFS modified the final rule to reduce the reporting burden as much as possible.

Comment 10 - Several commenters requested that biweekly reports only be required during reporting periods with activity while one commenter requested that negative reporting be implemented. A commenter suggested that the average weight of individual fish be used for reporting bulk shipments of bigeye tuna on the biweekly reporting form, and another commenter requested that individual weights be used for swordfish.

Response – NMFS will not require negative biweekly reporting. In several NMFS programs, negative reporting is used to verify whether the absence of information for a reporting period is the result of a missing report or inactivity. However, in this program, NMFS has several options for verifying reporting data, including comparison of Customs and Border Protection's entry data and comparison of statistical document data from other member nations. Based on responses from dealers that have participated in the swordfish import program and in an effort to minimize reporting burden, NMFS determined that negative reporting was not necessary for satisfactory implementation of this program. Some specific details, including how to record the weight of fish on individual forms, will be determined during development of the implementation plan.

Comment 11 - A commenter noted that each member country of IATTC and ICCAT is implementing a statistical document program, and asked whether the United States might be able to learn from the way other countries were implementing their programs.

Response – Sharing of ideas and approaches to fishery management challenges among member nations is an essential underpinning of the RFMO process. The United States has met with other nations to discuss implementation issues such as harmonizing different reporting forms and providing data in consistent electronic formats, and continues to welcome the opportunity to discuss program objectives and implementation strategies at annual RFMO meetings as well as interim meetings with delegates of other nations.

Comment 12 - Several commenters suggested that the statistical documents be modified so that one form addressed all species.

Response – ICCAT convened an international meeting of technical experts in 2001 to consider and resolve technical issues related to the implementation of the recommended swordfish and bigeye tuna statistical document programs. At that meeting, the United States proposed a single, harmonized document to track bluefin tuna, bigeye tuna, and swordfish trade. Although this proposal was consistent with ICCAT's directive to endeavor to harmonize all statistical documents under its purview, it was rejected by the technical experts due to differences in trade patterns and practices relative to the three species, and potential impacts to the effectiveness of the current bluefin tuna statistical document program if it was altered to include additional species. As a result, ICCAT developed separate species-specific forms for bigeye tuna and swordfish. Harmonizing these individual forms is a long-term goal of NMFS.

Comment 13 - A commenter asked how shipments of more than one species would be





addressed. Another commenter asked whether statistical documents would be required at entry into the customs territory of the United States.

Response – The final rule requires that species-specific statistical documents accompany imports into the United States of fresh or frozen swordfish, frozen bigeye tuna, and fresh or frozen Southern bluefin tuna shipments and that documentation be available at time of entry. If a shipment contains more than one species, then a species specific statistical document would be required for each covered species in the shipment.

Comment 14 - A commenter stated that dealers should be required to keep records for seven years rather than two years.

Response – Dealers are required to keep submitted and supporting records for a period of two years. This information must be made available to authorized personnel upon request. The two year timeframe establishes a balance between the burden on dealers and the record-keeping, reporting, and the data collection needs of the agency.

Comment 15 - A commenter noted that non-participating nations could have trouble exporting covered species into the United States. For example, shipments from nations with unstable or disorganized governments could be delayed because of the government validation clause in the proposed rule. A commenter requested that statistical documents and instructions be easily accessible for exporters from other nations.

Response – Nations that are members of ICCAT, IATTC, IOTC, and/or the CCSBT will be familiar with statistical document programs, and are expected to have the infrastructure to support the necessary reporting requirements. Nations or businesses of nations that are not members of an RFMO can contact the appropriate RFMO for approved statistical documents and validation requirements. The required statistical documents are currently accessible on the websites of the RFMOs ([iccat.es](http://iccat.es); [iattc.org](http://iattc.org); [ccsbt.org](http://ccsbt.org); [iotc.org](http://iotc.org)).

## **Guam Transshipments**

Comment 16- Numerous commenters questioned the applicability of the proposed statistical document programs to Guam's transshipment industry in which foreign flag longline vessels land fresh product on Guam that is graded, packaged and shipped by air to that vessels' country of origin or a foreign nation. A commenter stated that Guam has few opportunities for economic development and that the transshipment industry has helped the local economy. A commenter noted that it is important to be certain that Guam shipments are ultimately accepted in Japan, and another commenter stated that Guam agents should not be responsible for submitting the proposed documentation.

Response - The trade monitoring program established by the final rule will not apply to HMS transshipped through Guam from one foreign nation to another, including transshipments landed on Guam by foreign vessels. However, any covered HMS landed in Guam by foreign vessels and entered into the customs territory of Guam for consumption (e.g., sold in Guam's domestic market) would be subject to these regulations. As defined in the final rule, a transshipment is not considered an entry for consumption into the customs territory of Guam and



does not require a U.S. statistical document or re-export certificate. However, any importing nation, such as Japan, may require that transshipments be accompanied by statistical documents from the appropriate nation. As indicated in the RFMO recommendations, statistical documents must be validated by the country of the vessel that landed the fish, therefore, the statistical document would originate and be validated by the flag nation of the vessel landing the fish in Guam. Guam is a separate customs territory from the customs territory of the United States with its own customs regulations. NMFS will continue to work with the Government of Guam to determine appropriate implementation of the requirements of this rule.

## **Regulatory Process**

Comment 17 - Several commenters expressed concern about the completeness of the regulatory measures in the proposed rule, noting a need for clarification in the process to be used for validation and the definition of a dealer. A commenter stated that the public should be able to comment again once these measures were further clarified.

Response – In response to public comments, NMFS made several clarifications to the final rule, including a number of changes which reduced the reporting burden (see previous responses regarding reporting burden). Since many of the changes provide clarification of terms and concepts used in the original rulemaking rather than new rule provisions, it is not necessary to again solicit public comment. Specific details of program implementation, for example, the addresses to which reports must be submitted and the cost of the permit (which will be based on the overall cost of the program) will be determined during the implementation period and are not required to be codified in regulatory text. The extended period of implementation will allow adjustments as specific details and processes of the program are developed.

Comment 18 - A commenter stated that the IRFA should have included the following: management objective and underlying rationale; alternatives such as using the council process, exempting fresh fish, reducing redundant requirements, or including catches from purse seine vessels. A commenter requested that the supporting documentation be expanded to address the offloading of IUU frozen fish in Japan. Another commenter asked whether an analysis of alternatives to this rule was prepared.

Response - A combined RIR/ IRFA was prepared for this rulemaking, which analyzed a number of alternatives to the proposed rule and supported these analyses with a description of the management objective, statement of the problem, and description of the fisheries in addition to other information. One of the requirements of an IRFA is to describe any alternatives to the final rule which accomplish the stated objectives and which minimize any significant economic impacts. The alternatives suggested above either did not meet the objectives of the rulemaking or did not minimize impacts on affected constituents. Since the purpose of the rulemaking is to establish programs under international agreement, NMFS coordinated with regional fishery management councils and provided opportunities for public comment. NMFS carefully analyzed the alternatives and the potential impact of each alternative when selecting the preferred alternative and final action. The selected alternative is the alternative that reduced the complexity of the reporting requirements without compromising the effectiveness of the trade monitoring program. The final action does not include permitting or reporting requirements for fresh bigeye tuna.



## **Ports of Entry**

Comment 19 - Many commenters stated that limiting trade to certain ports of entry could have a tremendous economic impact on local industries. A number of commenters requested that all Hawaii ports remain open. A commenter stated that ports of entry should be chosen through a proposed rule process rather than being designated by the Assistant Administrator for Fisheries. Another commenter suggested that ports of entry be considered separately through the fishery management council process.

Response – This rule does not limit trade to any ports. Should designation of entry ports be necessary to further facilitate enforcement or administrative procedures, NMFS intends to use a rulemaking process in order to facilitate public participation consistent with the Administrative Procedures Act.

## **Enforcement**

Comment 20- A number of commenters raised enforcement issues, including noting that a fee structure and an appeal process for violations were not included in the proposed rule. One commenter stated that NMFS enforcement has been inconsistent in what it chooses to enforce. Another commenter requested that more funding be provided for enforcement. A commenter requested that a 90 day trial period be instituted before regulations are enforced.

Response- NOAA's Civil Procedure regulations, which can be found at 15 CFR Part 904, include the procedures for contesting Notices of Violation and Assessment (NOVAs). Maximum civil penalty amounts are established by statute; the penalty in any particular case is assessed at the discretion of the prosecuting attorney from the Office of General Counsel for Enforcement and Litigation, after consulting NOAA's civil administrative penalty schedule. Consideration is given to many factors including, but not limited to, respondent's ability to pay, the severity of the violation based on its impact on the resource, and whether or not the respondent has prior violations. While enforcement priorities exist, and may vary by region, National Marine Fisheries Service Office for Law Enforcement is committed to a comprehensive program of enforcing all of the statutes administered by NOAA. Funding for enforcement of these, and any regulations, is by statutory appropriation. All regulations are enforceable as of their effective date.

## **Other Comments**

Comment 21 - Several commenters stated that purse seiners should not be exempt from the proposed rule, noting that the rationale for exemption in the proposed rule was unclear and that the United States should oppose the exemptions identified in the ICCAT recommendation, unless mandatory observer coverage is implemented to determine the amount of tuna harvested by these fisheries.

Response – Both the ICCAT and IATTC recommendations provide exemptions for purse seine and baitboat catches bound for canneries. The RFMOs have determined that the tuna landings and catch data collected by canneries is adequate for the purposes of these recommendations.



Comment 22 – Several commenters perceived that U.S. fishermen were subject to greater restrictions and reporting requirements than fishermen from other nations.

Response – NMFS recognizes that reporting of HMS by fishing nations has been variable throughout the world’s oceans and that the standards applied to U.S. fishermen are often considered to be a benchmark for responsible fishing. The United States continues to work actively with respective RFMOs to provide leadership and support to conserve and manage HMS in the Atlantic, Pacific, and Indian Oceans.

Comment 23 - A commenter asked whether bluefin tuna that are caught off the United States and sent to Mexico for cage culture were affected by this proposed rule. Another commenter asked whether the proposed rule applies to farmed bluefin tuna.

Response – This final rule includes a provision for a bluefin tuna re-export certificate which must accompany re-exported shipments of bluefin tuna regardless of whether they have been farmed or raised in cage culture. In addition, the previously implemented ICCAT bluefin tuna statistical document program would also apply to farmed bluefin tuna.

Comment 24 - One commenter requested that commercial fishing vessels of fishermen that violate quotas be seized.

Response – This rule regulates the trade of swordfish, bigeye tuna, southern bluefin tuna and bluefin tuna and addresses HMS dealers, not vessels.

Comment 25 - A commenter requested that the final regulations stress application to all products “in any form” rather than relying on harmonized tariff schedule (HTS) codes.

Response – The final rule applies to all products of the covered species (including chunks, fillets, and airtight containers) except fish parts other than meat (e.g., heads, eyes, roe, guts, tails). The rule also identifies products by description in conjunction with currently available HTS codes.



## **9.0 List of Preparers**

This document was prepared by a team including individuals from the Office of Sustainable Fisheries (SF), Pacific Islands Regional Office (PIRO), and Pacific Islands Fisheries Science Center (PIFSC) of NOAA Fisheries including:

Keith Bigelow, M.S., Research Fishery Biologist (PIFSC)  
Karyl Brewster-Geisz, M.S., Fishery Management Specialist (SF)  
Raymond Clarke, M.S., Fishery Biologist (PIRO)  
David Hamm, Acting Chief, Fishery Monitoring and Socioeconomics Division (PIFSC)  
Tyson Kade, M.E.M., Fishery Management Specialist (SF)  
Mark Murray-Brown, M.S./M.A., Fishery Management Specialist (SF)  
Christopher Rogers, Ph.D., Chief, Highly Migratory Species (SF)  
Robert Skillman, Ph.D., Fishery Biologist (PIFSC)  
Dianne Stephan, M.S., Fishery Management Specialist (SF)

The NOAA Office of General Counsel also contributed.



## 10.0 References

- Guam Department of Commerce. Economic Development and Planning Division. Guam large scale fisheries: current status and prospects. [www.admin.gov.gu/comerc/guam\\_large\\_fisheries.htm](http://www.admin.gov.gu/comerc/guam_large_fisheries.htm). 6 p.
- Guam Port Authority. Port authority of Guam vessel and cargo statistics. [www.netpci.com/-pag4/](http://www.netpci.com/-pag4/)
- Hamnett, M.P. and W.S. Pintz. The contribution of tuna fishing and transshipment to the economies of American Samoa, the Commonwealth of the Northern Mariana Islands, and Guam. Pelagic Fisheries Research Program, Joint Institute for Marine and Atmospheric Research 96-303, SOEST 96-05, University of Hawai'i and NOAA. 38 p.
- Hinton, M.G., and W .H. Bayliff. 2002. Status of swordfish in the eastern Pacific Ocean. Inter-American Tropical Tuna Commission Stock Assessment Report 2, Status of Tuna and Billfish Stocks in 2000. p. 297-339.
- IATTC. 1999. Inter-American Tropical Tuna Commission, Annual Report 1997, La Jolla, CA 92038.
- Kleiber, E. 2002. The impact of the regulations resulting from events of September 11 on the transshipment of fresh fish in the American Pacific. Western Pacific Regional Fishery Management Council. 18 p.
- Langley, A., J. Hampton, and P. Williams. 2004. The Western and Central Pacific tuna fishery: 2002. Overview and status of stocks. Oceanic Fisheries Programme. Tuna Fisheries Assessment Report No. 5. Secretariat of the Pacific Community. New Caldonia. 49 p.
- NOAA Fisheries, Highly Migratory Species Management Division. 2004. Stock Assessment and Fishery Evaluation (SAFE) Report for Atlantic Highly Migratory Species. Silver Spring, MD. 67 p.
- NOAA Fisheries, Highly Migratory Species Management Division. 2003. Stock Assessment and Fishery Evaluation (SAFE) Report for Atlantic Highly Migratory Species. Silver Spring, MD. 264 p.
- NOAA Fisheries Highly Migratory Species Management Division. 1999. Final Fishery Management Plan for Atlantic Tuna, Swordfish, and Sharks. Silver Spring, MD.
- PFMC (Pacific Fishery Management Council). 2002. Fishery Management Plan and Environmental Impact Statement for U.S. West Coast Fisheries for Highly Migratory Species. PFMC, Portland, OR.
- SCRS. 2002. Report of the Standing Committee on Research and Statistics, ICCAT SCRS,

September 30 - October 4, 2002.

Standing Committee on Tuna and Billfish. 2003. Report of the Sixteenth meeting of the standing committee on tuna and billfish. Secretariat of the Pacific Community. New Caledonia. July 2003. Pp. 56-57.

Standing Committee on Tuna and Billfish. 2002. Report of the Fifteenth meeting of the standing committee on tuna and billfish. Secretariat of the Pacific Community. New Caledonia. July 2002. Pp. 35.

Watters, G.M., and M.N. Maunder. 2002. Status of bigeye tuna in the eastern Pacific Ocean. Inter-American Tropical Tuna Commission, Stock Assessment Report 2, Status of Tuna and Billfish Stocks in 2000, p. 147-246.

WPRFMC. 2002. Measures to Reduce the Incidental Catch of Sea Turtles in the Pelagic Fisheries of the Western Pacific Region. Western Pacific Regional Fishery Management Council. January 31, 2002.